



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Fifty-first session

CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Concluding observations of the Committee on the
Elimination of Racial Discrimination

Burundi

1. At its 1238th and 1239th meetings, held on 19 and 20 August 1997, the Committee considered the seventh to tenth periodic reports of Burundi (CERD/C/295/Add.1), and adopted, at its 1242nd meeting, held on 21 August 1997, the following concluding observations.

A. Introduction

2. The Committee welcomes the resumption of the dialogue with the State party, and the presence of a delegation from the capital to present the report. While noting that the report fails to provide concrete information on the implementation of the Convention in Burundi, the Committee expresses its satisfaction to the delegation for answering the many questions raised by members of the Committee during the course of the dialogue.

B. Factors and difficulties impeding the implementation
of the Convention

3. The Committee recognizes that Burundi is facing many difficulties that have an impact on the implementation of the Convention. In this respect, the Committee makes particular reference to the violent ethnic conflict in the States of the Great Lakes region, including in Burundi; the civil conflict plaguing the country; the massive displacements of populations and flows of refugees within the region, as well as the numerous internally displaced persons; the political instability; and the very difficult economic and social situation, aggravated by the imposition of an economic embargo against the State party since 31 July 1996.

C. Positive aspects

4. The Committee warmly appreciates the efforts of the State party to submit and present its report under adverse circumstances.

5. The Committee welcomes the declared willingness of the State party to restore peace and security in Burundi through political dialogue to be held in September 1997 in Tanzania, which it is hoped could produce a government satisfactory to all parties. The declared policy of the Government to end impunity for perpetrators of human rights violations, is also welcomed by the Committee.

6. The establishment of a Ministry responsible for Human Rights and of a National Centre for Human Rights is welcomed. The fact that the Government encourages the establishment of independent leagues and associations for the promotion and protection of human rights is viewed as a positive factor.

7. The fact that the Penal Code, in its article 180, penalizes racial or ethnic discrimination and hatred, and that the Political Parties Act prohibits discrimination based on ethnic grounds and makes it an offence under its articles 5 and 63, respectively, is noted with satisfaction.

8. Note is taken with appreciation of the oral invitation to the Commission to send members to Burundi to assess the situation with respect to the implementation of the Convention in practice. This is viewed as a constructive means of pursuing the dialogue with the State party, and shows the latter's willingness to improve the implementation of the provisions of the Convention.

D. Principal subjects of concern

9. The main concern of the Committee is the continuation of acts of violence and killing between people of different ethnic background in Burundi.

10. The understanding of the notions of "race" and "ethnic origin" by the State party, as expressed in paragraphs 5, 6 and 23 of the report, and reiterated by the delegation in its oral statement, are a matter of concern. The Committee emphasizes that article 1, paragraph 1, of the Convention defines as racial discrimination any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin, which has either the purpose or the effect of nullifying or impairing the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis in the political, social, cultural or any other field of public life. Moreover, the attention of the State party is called to the Committee's General Recommendation VIII, which provides that the identification of individuals as members of a particular racial or ethnic group shall be based upon self-identification by the individual himself. In the present case, it is believed that a large part of the population of the State party identifies itself as belonging to one of the three ethnic groups living in the country,

either the Tutsis, the Hutus or the Twas, and that important parts of the population are living in conditions which do not guarantee the exercise of human rights under equal terms.

11. It is regretted that concerns expressed and recommendations made by the Committee in its concluding observations of 17 March 1994, and in its decision 1 (47) of 1995 and resolution 1 (49) of 1996 on the situation in Burundi, adopted under the Committee's prevention of racial discrimination, including early warning and urgent procedures, have not been addressed in the present report.

12. It is regretted that the status of Decree-Law No. 1/001 of 13 September 1996, which regulates the transitional institutional system, the current powers and activities of the National Assembly, and the functions and powers of the National Centre for Human Rights and the Abashingantahe Council, have not been fully clarified.

13. The insufficiency of information in the report in connection with article 3 of the Convention is regretted. In this respect, the Committee calls the attention of the State party to its General Recommendation XIX.

14. The Committee expresses concern over reports of delays in the prosecution of those responsible for the assassination of President Ndadaye. It is equally concerned over the slow progress in prosecuting and punishing perpetrators of mass killings and disappearances. The delays cast doubts upon the effective implementation of the Government's policy of ending the pattern of impunity.

15. It is noted with concern that no specific legislation has been adopted to implement fully the provisions of article 4 of the Convention, and that no information was provided in the report on the implementation of this article in practice.

16. The lack of information on the enjoyment by the various groups within the population of all the rights laid down in article 5 of the Convention is regretted, all the more so since numerous reports make reference to discrimination against the Hutus and the Twas in the enjoyment of certain rights, such as the rights incorporated in article 5 (a), (b), (d) (i), (e) (i), (iv), (v), and (f), of the Convention.

17. The insufficiency of information received on regroupment camps in general, and, in particular, on the ethnic composition of the people in the camps and the situation and conditions of life prevailing therein, is regretted. Concern is expressed over reports that people, mostly of Hutu origin, are forced by the police to leave their homes and settle in regroupment camps, which are kept under the control of the army, in violation of article 5 (d) (i) of the Convention.

18. While the statement made by the delegation that an appeal was sent to Burundi refugees in neighbouring countries to return to Burundi is welcomed, the lack of information on measures taken to ensure their repatriation and their safe return is regretted. Similarly, the lack of information on the situation of refugees living in Burundi is regretted,

all the more so since reports state that their rights to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual or group or institution, under article 5 (b) of the Convention, is not always guaranteed.

19. With respect to article 6 of the Convention, concern is expressed over the lack of legislative provisions to implement the right to just and adequate reparation or satisfaction for any damage suffered as a result of acts of racial discrimination. Moreover, the absence of complaints against acts of racial discrimination raises doubts as to the extent of the publicity given to, and the effectiveness of, available remedies for victims of racial discrimination.

20. In connection with article 7 of the Convention, while the statements of policy and the programmes launched by ministerial departments cited in the report are welcomed, the lack of information on concrete steps undertaken to comply with its provisions is regretted.

E. Suggestions and recommendations

21. The Committee recommends that the next periodic report provide information on the representation of members of the Tutsi, Hutu and Twa ethnic groups in the Government, the administration, the judiciary, the police and the army. It further recommends that the Government, while restructuring the country, take into consideration the Committee's concluding observations of 17 March 1994, its decision 1 (47) of 1995 and its resolution 1 (49) of 1996.

22. The Committee also recommends that information be provided by the State party in its next periodic report on the place of Decree-Law No. 1/001/96 in the domestic legal order, on the situation with respect to the current powers and activities of the National Assembly, as well as on the respective powers and functions of the National Centre for Human Rights and the Abashingantahe Council.

23. In connection with the implementation of article 3 of the Convention, the Committee recommends that, in the light of its General Recommendation XIX, comprehensive information be provided by the State party in its next periodic report on measures taken to prevent, prohibit and eradicate all practices of racial segregation in Burundi.

24. The Committee urges the Government to further its efforts to bring to an end the impunity of perpetrators of human rights violations and to accelerate the procedures currently under way. In this respect, the Committee emphasizes the need for the investigation, prosecution and punishment of those found guilty of such crimes, in order to restore confidence in the rule of law and as an indication that their recurrence will not be tolerated by the authorities.

25. The Committee reaffirms that the provisions of article 4 of the Convention are mandatory, as stated in its General Recommendation VII (32). The Committee stresses in this regard that the State party should fulfil all its obligations under this article and, in doing so, it take fully into account the Committee's General Recommendation XV (42).

26. The Committee recommends that action be taken at the legislative, administrative and judicial levels to protect the right of everyone, without discrimination, to enjoy their rights under article 5 of the Convention, especially the rights to equal treatment before the courts and all other organs administering justice; to security of person and protection by the State against violence or bodily harm; to freedom of movement and residence within the borders of the State; to work; to public health and medical care; to education and training; and of access to any place or service intended for use by the general public. It further recommends that comprehensive information on the implementation of this article be provided in the State party's next periodic report.

27. Further information on the situation prevailing in the regroupment camps, as well as on the ethnic composition of people settled therein and the possibility for the latter to freely leave or settle in the camps, is requested.

28. The Committee also requests information in the next periodic report on measures taken to ensure the safe repatriation of refugees to Burundi, and to protect from violence refugees living within Burundi.

29. The Committee recommends that the State party ensure protection against any acts of racial discrimination through the competent courts, in accordance with article 6 of the Convention, by, inter alia, strengthening the court system, the independence of the judiciary and the confidence of the population therein. It further recommends that the right to seek just and adequate reparation for victims of acts of racial discrimination be guaranteed in law and practice.

30. In connection with the implementation of article 7 of the Convention, the Committee recommends that all necessary measures be taken to provide training and education of law enforcement officers, civil servants, magistrates and lawyers, as well as teachers and students, at all levels of education, in the field of human rights and prevention of racial discrimination.

31. The Committee, aware that the resolution of the ethnic conflict in Burundi cannot be achieved without a resolution of the conflict in the Great Lakes region, urges the Burundi authorities to take all the necessary measures, in cooperation with neighbouring countries, to find ways and means to restore peace and security in Burundi.

32. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention adopted at the 14th meeting of States parties.

33. The Committee recommends that the State party's next periodic report, due on 26 November 1998, be a comprehensive report and that it address all the points raised in the present observations.
